IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

W.A.No.1882 of 2007

AGAINST THE JUDGEMENT IN W.P.(C).NO.32445/2006 DATED 20/06/2007

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APPELLANT: PETITIONER:-

SMT.MALLIKA THAMPURAN,
W/O.LATE SRI. GIRIJA VALLABHA MENON,
SREE VILASOM PALACE, KOTTAKKAKOM, THRIPPUNITHURA.

BY ADV. SRI.S.GOPAKUMARAN NAIR

RESPONDENTS: RESPONDENTS:-

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1. THE COCHIN DEVASWOM BOARD,
   REPRESENTED BY ITS SECRETARY,
   DEVASWOM BOARD OFFICE, THRIPPUNITHURA.

2. THRIPPUNITHURA MUNICIPALITY,
   REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE,
   THRIPPUNITHURA, COCHIN.

3. THE LAND REVENUE COMMISSIONER, KERALA STATE,
   THIRUVANANTHAPURAM.

4. THE DISTRICT COLLECTOR, ERNAKULAM.

5. THE RE-SURVEY SUPERINTENDENT, THRIPPUNITHURA.

6. STATE OF KERALA,
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   DEPARTMENT OF LAND AND REVENUE,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM

R1 BY STANDING COUNSEL SRI.K.GOPALAKRISHNA KURUP.
R2 BY ADV. SRI.V.M.KURIAN
R3 TO R6 BY SPECIAL GOVERNMENT PLEADER SRI.C.T.RAVIKUMAR.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.1882 of 2007

Dated, this the 31st day of July 2007

JUDGMENT

K.T.Sankaran,J.

The appellant filed the writ petition praying for the following reliefs:

> (i) to issue a writ of mandamus directing the 3rd, 4th and 5th respondents to carry out necessary correction in the land revenue records in respect of 27 cents in Sy.Nos.936/4 and 937, deleting the entry "Puramboke" and substituting the same with that of the petitioner's late husband, Sri Girija Vallabha Menon, the rightful owner of the property.
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> (ii) to issue a declaration that the 27 cents of property comprised in Sry.Nos.936/4 and 937 of the Nadama Village in the Kanayannur Taluk belongs to Sri.Girija Vallabha Menon, late husband of the petitioner.
>
> (iii) to issue a writ of prohibition or any other order or direction directing the 1st respondent not to construct any building or commit any waste in the petitioner's property of 27 cents comprised in Sy.No.936/1 and 937 of the Nadama Village in Kanayannur Taluk."

(2) The learned Single Judge dismissed the writ petition taking the view that the reliefs prayed for in the writ petition cannot be granted and that the questions involved in the writ petition could be decided only by a civil Court.

(3) The case of the appellant is that the property in question, having an extent of 9 cents, belongs to her husband's family and it was partitioned as per Exhibit P3 partition deed. As per the partition deed, it was allotted to Ammukutty Amma, the 7th sakha of the family. Subsequently, it was partitioned among the members of the 7th sakha and the property was allotted to the late husband of the appellant. The appellant filed an application, Exhibit

P5, before the Land Revenue Commissioner stating that the entries in the Village records show that the land in question is a puramboke land and it is a mistake. That representation is dated 1.8.2006. Exhibit P5(a) shows that an enquiry is proposed to be made by the Re-survey Assistant Director in respect of the representation submitted by the appellant.

(4) The learned counsel appearing for the Cochin Devaswom Board submits that the property in question belongs to the Devaswom and not to the appellant.

(5) The contentions raised by the parties would unmistakably show that there is dispute with regard to the property in question, which has to be resolved either by a civil Court as held by the learned Single Judge or by the Revenue authorities as contended by the learned counsel for the appearing for the appellant. The reliefs as prayed for in the writ petition cannot be granted, as rightly held by the learned Single Judge.

The Writ Appeal lacks merits and it is accordingly dismissed.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-